

Amend **H.B. 145**, Section 5, page 3, line 10 by adding the following sentence and re-numbering the subsequent lines of the bill accordingly:

"The provisions contained in this section shall in no way limit the authority of the Legislature to provide for assistant district attorneys, investigators, stenographers, secretaries, or any other staff out of State funds when the Legislature deems such supplementation of staff to be necessary".

The committee amendment was read and was adopted.

On motion of Senator McKnight and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Adams in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Aikin the Senate at 9:05 o'clock a.m. adjourned until 10:30 o'clock a.m. today.

FIFTY-FIFTH DAY (Thursday, April 21, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

A quorum was announced present.

The Reverend Roy Bohrer, Christ Lutheran, Missouri Synod, Austin, Texas, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 704

On motion of Senator Hance and by unanimous consent, Senator Mengden will be shown as Co-author of **S.B. 704**.

CO-AUTHOR OF SENATE BILL 1049

On motion of Senator Truan and by unanimous consent, Senator Mengden will be shown as Co-author of **S.B. 1049**.

SENATE RESOLUTION 564

Senator Andujar offered the following resolution:

WHEREAS, Texas has given to the several States of these United States a person of remarkable character, charm, and ability; and

WHEREAS, She is the wife of a most distinguished and able Texan, the mother of five wonderful children; and

WHEREAS, She is one of the outstanding women of the world, having served with utmost capability in numerous posts of extreme importance, including service as counselor to two presidents; and

WHEREAS, Her service as United States Ambassador to the Court of St. James was marked by dedication, compassion, and signal public acclaim; now, therefore, be it

RESOLVED, That the Senate of the State of Texas commend the Honorable Anne Armstrong for her efforts on behalf of understanding and good will; and, be it further

RESOLVED, That official copies of this Resolution be prepared for Mrs. Armstrong as a token of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Andujar and by unanimous consent, the resolution was considered immediately and was adopted.

On motion of Senator Harris and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereto.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolution:

H.B. 812

S.C.R. 89

S.B. 527

REPORTS OF STANDING COMMITTEES

Senator Snelson submitted the following report for the Committee on Intergovernmental Relations:

S.B. 890

S.B. 1057

S.B. 1191

S.B. 1235
H.B. 433
H.B. 533
H.B. 656
H.B. 1029
H.B. 1319

Senator Aikin submitted the following report for the Committee on Finance:

S.B. 605
S.B. 364 (Amended)
S.B. 1253

Senator Mauzy submitted the following report for the Committee on Education:

H.B. 188
S.B. 1201

Senator Sherman submitted the following report for the Committee on Natural Resources:

S.J.R. 26
S.B. 354 (Amended)
C.S.S.B. 801 (Read first time)
C.S.S.B. 832 (Read first time)
H.B. 920 (Amended)
C.S.S.B. 1202 (Read first time)
S.B. 1178
H.B. 1245
C.S.S.B. 1251 (Read first time)
H.B. 1653

Senator Jones of Taylor, Vice-Chairman, submitted the following report for the Committee on Economic Development:

S.B. 941
S.B. 942
C.S.S.B. 1103 (Read first time)

Senator Moore submitted the following report for the Committee on State Affairs:

C.S.H.B. 128 (Read first time)
C.S.S.B. 464 (Read first time)
C.S.S.B. 1146 (Read first time)
H.B. 244
C.S.S.B. 1150 (Read first time)
C.S.S.B. 1212 (Read first time)
S.B. 1045
C.S.S.B. 1166 (Read first time)
S.B. 1205
H.B. 1876

SENATE BILLS AND RESOLUTION ON FIRST READING

By unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1268 by Traeger Intergovernmental Relations
Authorizing the Texas Employment Commission to sell and convey certain land located in the City of Laredo, Webb County, Texas; prescribing the procedures, terms, and conditions of sale; disposition of the proceeds; and declaring an emergency.

S.B. 1269 by Creighton Natural Resources
Relating to the creation, organization, administration, rights, powers, privileges, duties, functions, responsibilities, procedures, and financing of the Aquilla Water Supply District; providing procedures of annexing territory and levying taxes; authorizing the City of Hillsboro and public agencies and political subdivisions of the state to enter into contracts with the district; providing relationship of this Act to other laws; providing for the district's bearing the expense of relocation or alteration of certain properties; providing procedures for the issuance of bonds and refunding bonds; providing for their terms, security and use of proceeds; providing for taxing authority and elections in connection with the levy of taxes and issuance of bonds; providing remedies for holders of bonds in case of default; providing the characteristics of the bonds issued and their eligibility for investment and security for deposit of public funds; providing exemption from taxation; stating compliance with notice requirements of the Texas Constitution; and declaring an emergency.

S.B. 1270 by Snelson Education
Relating to special education programs for handicapped children; amending Sections 16.102(b), 16.104, 11.052, and 11.10(o), (q), (s), and (t), Texas Education Code, as amended, and adding Section 11.103 and Subsection (c) to Section 16.056.

S.B. 1271 by Moore State Affairs
Relating to the administration, operation, management, and financing of the Walker County Hospital District; amending Sections 4(b), 4(c), 4(d), 6, and 11, Chapter 848, Acts of the 62nd Legislature, Regular Session, 1971.

S.B. 1272 by Lombardino State Affairs
Relating to proof of financial responsibility on registration of a motor vehicle; amending the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes), by adding Section 17A.

S.B. 1273 by Lombardino State Affairs
Relating to expiration of notification of intent to damage a Recorded Texas Historic Landmark; adding to Chapter 311, Section 12 (2), Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6145, Vernon's Texas Civil Statutes).

S.B. 1274 by Aikin Human Resources
Transferring the management and control of the San Antonio State Chest Hospital to the Texas Department of Mental Health and Mental Retardation; providing for the continued operation of a chest disease treatment facility on the San Antonio State Chest Hospital grounds; combining the San Antonio State Chest Hospital, the San Antonio State Hospital, and the San Antonio State School into a single facility named the San Antonio State Center; and declaring an emergency.

S.B. 1275 by Farabee, Mauzy Jurisprudence
Relating to worker's compensation regulations and benefits; amending Section 12c of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8306, Revised Civil Statutes of Texas, 1925, as amended, by adding thereto a new Section designated as Section 12c-1a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 9 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

S.B. 1276 by Brooks Human Resources
Relating to the anatomical board and regulation of recipients of certain anatomical donations; amending Article 4583, Revised Civil Statutes of Texas, 1925, as amended.

S.B. 1279 by McKnight Intergovernmental Relations
Relating to the membership of the Smith County Juvenile Board; amending Article 5139E-1, Revised Civil Statutes of Texas, 1925, as amended.

S.C.R. 90 by Schwartz Administration
Granting Mitchell Energy Corporation and Mitchell Energy Offshore Corporation permission to sue the State of Texas.

HOUSE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

- H.B. 52**, To Committee on Intergovernmental Relations.
- H.B. 117**, To Committee on State Affairs.
- H.B. 168**, To Committee on Intergovernmental Relations.
- H.B. 397**, To Committee on Education.
- H.B. 436**, To Committee on State Affairs.
- H.B. 1574**, To Committee on Human Resources.
- H.B. 1214**, To Committee on Jurisprudence.
- H.B. 1184**, To Committee on State Affairs.
- H.B. 1177**, To Committee on Economic Development.
- H.B. 988**, To Committee on Economic Development.
- H.B. 949**, To Committee on Intergovernmental Relations.
- H.B. 788**, To Committee on Education.
- H.B. 756**, To Committee on Economic Development.

HOUSE BILL 451 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 451, A bill to be entitled An Act relating to creation of a special fund in the state treasury to be used by the Commission on Law Enforcement Officer Standards and Education in administering its powers and duties; amending Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413(29aa), Vernon's Texas Civil Statutes), by adding Section 9B, and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 451 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 451** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 6, Present-Not Voting 1.

Yeas: Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Mauzy, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Adams, Andujar, Longoria, Parker, Patman, Truan.

Present-Not voting: McKnight.

Absent: Farabee.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Adams, Creighton, Longoria, Parker, Patman, Truan.

SENATE BILL 75 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 75** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 75** by striking the words: "without notice or knowledge of such incorporation." on line 1, page 2, and inserting in lieu thereof the following:

"It shall be a defense that a claimant had actual notice or knowledge of such incorporation."

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Mauzy.

Absent: Braecklein.

(Senator Parker in Chair)

SENATE BILL 1225 ON SECOND READING

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1225, Authorizing the Texas Board of Corrections to construct a medical facility on the campus of The University of Texas Medical Branch at Galveston; providing for the operation and maintenance of the facility pursuant to an interagency cooperation contract; providing for the construction of the facility.

The bill was read second time and was passed to engrossment.

(President in Chair)

SENATE BILL 1225 ON THIRD READING

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1225** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time.

By unanimous consent, Senator Schwartz offered the following amendment to the bill:

Amend **S.B. 1225** by adding the words and "necessary related facilities" between the words "facility and on the campus" in Section 1 thereof.

The amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was then finally passed.

SENATE BILL 896 ON SECOND READING

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 896, Relating to unemployment compensation; amending the Texas Unemployment Compensation Act, to conform to the provisions of Public Law 94-566, etc.

The bill was read second time.

Senator Mauzy offered the following amendment to the bill:

Amend Senate Bill 896 by striking all below the enacting clause and substituting, in lieu thereof, the following:

Section 1. Subsections (b), (c), and (f), Section 3, Texas Unemployment Compensation Act, as amended (Article 5221b-1, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) Benefit Amount for Total Unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one twenty-fifth (1/25) of his wages received from employment by employers during that quarter in his base period in which wages were highest, provided that:

"(1) If such rate is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1); and

"(2) Such rate shall not be more than Eighty-four Dollars (\$84) ~~[Sixty-three Dollars (\$63)]~~ per benefit period nor less than Fifteen Dollars (\$15) per benefit period on valid initial claims filed on or after October 1, 1977; provided that if the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1976 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit amount shall be increased by Seven Dollars (\$7) and the minimum weekly benefit amount shall be increased by One Dollar (\$1) above the maximum and minimum amounts established herein, the increases to become effective on valid initial claims filed on or after October 1 following publication of 'The Average Weekly Wage' report. Thereafter each cumulative (additional) Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas, as annually determined and reported by the Texas Employment Commission, shall cumulatively increase the maximum weekly benefit amount by an additional Seven Dollars (\$7) and the minimum weekly benefit amount by an additional One Dollar (\$1) beginning with the next October 1 following publication of 'The Average Weekly Wage' report. The maximum benefit amount payable per benefit period under this section to any individual on the effective date of a valid claim shall remain the maximum benefit amount payable to that individual until that individual establishes a new benefit year."

"(c) Benefit Wage Credits: 'Benefit wage credits' means those wages as defined in this subsection of the Act, which are used in determining an individual's right to benefits. 'Wages' as used in this Section shall be as defined in subsection (n) of Section 19 of this Act, except that the six-thousand-dollar ~~[four-thousand-two hundred-dollar]~~ limitation on wages as set out in subsection (n) (1) of Section 19 shall not be applicable for the purposes of this Section 3 ~~[to remuneration received]~~

after ~~December 31, 1971~~]; provided that, for the purposes of this Section 3, wages received by an individual in any calendar year ~~[after December 31, 1967,]~~ shall include all remuneration from each employer for employment up to the maximum amount of wages as defined in the Federal Insurance Contributions Act (Section 3121, Chapter 21, Subtitle C, Internal Revenue Code of 1954), as amended, or as it may hereafter be amended; and provided further, that wages which have been used to qualify an individual for regular benefits under this Act or under any other unemployment compensation law shall not be used again to qualify such individual for regular benefits.

"If an employer fails to report wages which were paid to a claimant during a base period when requested by the Commission, the Commission may establish wage credits for such claimant for such base period on the basis of the best information which has been obtained by the Commission.

"(f) Equal Treatment: Benefits based on services for all employers in employment defined in subsection 19(f) shall be payable in the same amount, on the same terms, and subject to the same conditions; except that:

"(1) With respect to services in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be payable based on those services for any week commencing during the period between two (2) successive academic years (or, when an agreement provides instead for a similar period between two (2) regular but not successive terms, during that period) to any individual if the individual performs those services in the first of the academic years (or terms) and if there is a contract or reasonable assurance that the individual will perform services in that capacity for any educational institution in the second of the academic years, or terms; and

"(2) With respect to services in any other capacity for an educational institution (other than an institution of higher education), benefits shall not be payable on the basis of those services to any individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs those services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform those services in the second of the academic years or terms [provided that benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education or in a public school shall not be paid to an individual for any week of unemployment which begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education or for any public school for both such academic years or both such terms]."

Sec. 2. Section 3, Texas Unemployment Compensation Act, as amended (Article 5221b-1, Vernon's Texas Civil Statutes), is amended by adding Subsections (g), (h), and (i) to read as follows:

"(g) Athletes: Benefits shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed those services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform those services in the later of the seasons (or similar periods).

"(h) Aliens: Benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently and lawfully residing in the United States (including an alien who is lawfully present in the United States as a result of

the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act), provided that:

"(1) any data or information required of individuals applying for benefits to determine whether or not benefits are payable to them because of their alien status shall be uniformly required from all applicants for benefits; and

"(2) in the case of an individual whose application for benefits would otherwise be approved, no determination that benefits are not payable to that individual because of his alien status may be made except on a preponderance of the evidence.

"Provided, that any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under the provisions of this Section.

"(i) Previously Uncovered Services: With respect to weeks of unemployment beginning after December 31, 1977, benefit wage credits shall include wages for previously uncovered services, provided that benefit payments based on those services are reimbursable from the federal government in accordance with provisions of Public Law 94-566 and provided that no employer's account shall be charged with payments based on those benefit wage credits either as chargebacks or reimbursements. For the purpose of this subsection, the term 'previously uncovered services' means services which were not employment and which were not services for an employer under any provision of this Act at any time during the one-year period ending December 31, 1975, and which constitute employment and services for an employer after December 31, 1977, in accordance with the provisions of Section 19 of this Act as services in agricultural labor, domestic services, services for a governmental employer, or services for a nonprofit educational institution which is not an institution of higher education, except to the extent that assistance under Title II of the Federal Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of those services."

Sec. 3. Section 4, Texas Unemployment Compensation Act, as amended (Article 5221b-2, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4. BENEFIT ELIGIBILITY CONDITIONS. An unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

"(a) He has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulations as the Commission may prescribe;

"(b) He has made a claim for benefits in accordance with the provisions of Subsection 6(a) of this Act;

"(c) He is able to work;

"(d) He is available for work;

"(e) He has within his base period received benefit wage credits for employment by employers of not less than Five Hundred Dollars (\$500) and has total benefit wage credits in his base period of not less than one and one-half (1 1/2) times his high quarter benefit wage credits in his base period, or within at least one quarter of his base period received wages for employment by employers equal to two-thirds (2/3) of the maximum amount of wages as defined in the Federal Insurance Contributions Act (Section 3121, Chapter 21, Subtitle C, Internal Revenue Code), as amended, or as it may hereafter be amended, provided that any claimant who has had a prior benefit year must have earned wages of Two Hundred Fifty Dollars (\$250) or more subsequent to the beginning date of the prior benefit year.

"(f) Prior to the first payment of benefits following an initial claim he has been totally or partially unemployed for a waiting period of seven (7) consecutive days. No week shall be counted as a waiting period week for the purposes of this Subsection:

"(1) Unless he has registered for work at an employment office in accordance with Subsection (a) of this Section;

"(2) Unless it is a week following the filing of an initial claim;

"(3) Unless he reports at an office of the Commission and certifies that he has met the waiting period requirements herein prescribed for the preceding seven (7) days;

"(4) If benefits have been paid or are payable with respect thereto;

"(5) If the individual does not meet the eligibility conditions of Subsections (c) and (d) of this Section 4;

"(6) If the individual has been disqualified for benefits for such seven (7) day period under the provisions of Subsections (a), (b), (c), or (d) of Section 5 of this Act;

"(7) Provided, notwithstanding any other provision of this Subsection (f), when an individual has been paid benefits in his current benefit year equal to three [~~four~~] times his weekly benefit amount, he shall be eligible to receive benefits on his waiting period claim in accordance with the terms of the Act."

Sec. 4. Section 4-A, Texas Unemployment Compensation Act, as added (Article 5221b-2a, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

"(c) Benefits shall not be denied to an individual solely on the basis of pregnancy or termination of pregnancy."

Sec. 5. Section 5, Texas Unemployment Compensation Act, as amended (Article 5221b-3, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5. **DISQUALIFICATION FOR BENEFITS.** An individual shall be disqualified for benefits:

"(a) If the Commission finds that he has left his last work voluntarily without good cause connected with his work. Such disqualification shall be for not less than one (1) nor more than twenty-five (25) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

"(b) If the Commission finds he has been discharged for misconduct connected with his last work. Such disqualification shall be for not less than one (1) nor more than twenty-six (26) benefit periods following the filing of a valid claim, as determined by the Commission according to the seriousness of the misconduct.

"(c) If the Commission finds that during his current benefit year he has failed, without good cause, either to apply for available, suitable work when so directed by the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall be for not less than one (1) nor more than thirteen (13) benefit periods following the failure, as described above to apply for or accept suitable work, the degree of disqualification to be determined by the Commission according to the circumstances in each case.

"(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals at the place of performance of his work, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

"(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise

eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

“(d) For any benefit period with respect to which the Commission finds that his total or partial unemployment is (i) due to the claimant’s stoppage of work because of a labor dispute at the factory, establishment, or other premises (including a vessel) at which he is or was last employed, or (ii) because of a labor dispute at another place, either within or without this State, which is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed, and supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed; provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

“(1) He is not participating in or financing or directly interested in the labor dispute; provided, however, that failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept and perform his available and customary work at the factory, establishment, or other premises (including a vessel) where he is or was last employed shall be considered as participation and interest in the labor dispute; and

“(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises (including a vessel) at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; and where a disqualification arises from the employee’s failure to meet the requirements of this paragraph (2) of this subsection (d) his disqualification shall cease if he shall show that he is not, and at the time of the labor dispute was not, a member of a labor organization which is the same as, represented by, or directly affiliated with, or that he, or such organization of which he is a member, if any, is not acting in concert or in sympathy with a labor organization involved in the labor dispute at the premises at which the labor dispute occurred, and he has made an unconditional offer to return to work at the premises at which he is or was last employed.

“(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

“(1) Wages in lieu of notice;

“(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen’s Compensation Law of any State or under a similar law of the United States;

“(3) Old Age Benefits under Title II of the Social Security Act as amended, or similar payments under any Act of Congress, or a State Legislature; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration. If any such benefits, payable under this subsection, after being reduced by the amount of such remuneration, are not an even multiple of One Dollar (\$1), they shall be adjusted to the next higher multiple of One Dollar (\$1).

“(f) In determining the number of benefit periods during which any individual is entitled to receive benefits in a benefit year, the Commission shall deduct any

period of disqualification as provided in subsections (a), (b), and (c) of this Section from the total number of benefit periods during which he would otherwise be entitled to receive benefits except for such disqualification; provided, that in no case shall the number of benefit periods so deducted exceed the number of benefit periods during which the claimant is then eligible to receive benefits except for such disqualification; and provided further, that in no event shall a disqualification imposed under subsection (a) or (c) of this Section result in a total reduction of the claimant's benefit rights in his benefit year.

"(g) For the duration of any period of unemployment with respect to which the Commission finds that such individual has left his most recent work for the purpose of attending an established educational institution; provided, that this subsection shall not apply during a period in which an individual is in training with the approval of the Commission.

"(h) For weeks of unemployment beginning after September 30, 1979, for any benefit period with respect to which the individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of the individual and which is reasonably attributable to that benefit period; provided, that if the remuneration is less than the benefits which would otherwise be due under this Act, the individual shall be entitled to receive for that benefit period, if otherwise eligible, benefits reduced by the amount of the remuneration. If those benefits, payable under this subsection, after being reduced by the amount of the remuneration, are not an even multiple of One Dollar (\$1), they shall be adjusted to the next higher multiple of One Dollar (\$1).

"The Legislature declares that the preceding paragraph is enacted because Section 3304(a)(15) of the Federal Unemployment Tax Act as provided in Public Law 94-566 requires this provision in State law as of January 1, 1978, as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act; and it further declares that if Section 3304(a)(15) is amended to provide modifications of these requirements, the modified requirements, to the extent that they are required for full tax credit, shall be considered applicable under the provisions of this Section rather than the provisions stated in the preceding paragraph."

Sec. 6. Subsections (b) and (f), Section 6, Texas Unemployment Compensation Act, as amended (Article 5221b-4, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) An unemployed individual who has no current benefit year may file an initial claim in accordance with rules or regulations prescribed by the Commission. The Commission shall mail a notice of the filing of such initial claim to the individual or organization for which the claimant last worked prior to the effective date of the initial claim. If the individual or organization has more than one branch or division operating at different locations, notice of the filing of such initial claim shall be mailed to the branch or division where claimant last worked. Mailing of notice of the initial claim to the correct address of the individual or organization or the branch or division where claimant last worked shall constitute due notice to such individual or organization. If the individual or organization to which such notice is mailed has knowledge of any facts that may adversely affect such claimant's right to benefits, or that may affect a charge to its account, it shall notify the Commission of such facts promptly. If such individual or organization does not mail or deliver such notification to the Commission within twelve (12) ~~ten (10)~~ days from the date notice of a claim was mailed to it by the Commission, such individual or organization shall be deemed to have waived all rights in connection with such claim, including any rights it may have under subsection 7(c) (2) of this Act, except with respect to a clerical or machine error as to the amount of its chargeback or maximum potential chargeback in connection with such claim.

"The Commission shall determine whether such initial claim is valid. If such initial claim is valid, the Commission shall determine the benefit year, the benefit amount for total unemployment and the duration of benefits. A notice of the determination of the initial claim shall be mailed to the claimant at his last known address as reflected by Commission records. The claimant may within twelve (12) calendar days from the date such notice was mailed request a redetermination or appeal in the manner provided in this Section.

"If such individual or organization for which claimant last worked has filed a notification with the Commission in accordance with this Section, an examiner shall make a determination as to whether the claimant is disqualified from receipt of benefits under Section 5 of this Act, as to any other issue affecting the claimant's right to receive benefits which may have arisen under any other provision of this Act, and as to whether a chargeback shall be made to the account of the individual or organization if benefits are paid, and shall mail a copy of the determination to the claimant and to such individual or organization, or the branch or division for which the claimant last worked. In the absence of such notification from such individual or organization, if, from information on the claim or other information secured, an issue is raised affecting the claimant's rights to benefits under any provision of this Act, an examiner shall prepare a determination reflecting his decision and mail a copy of it to the claimant at his last known address.

"Unless the claimant or the individual or organization or branch thereof to which the copy of the determination is mailed files an appeal from such determination within twelve (12) calendar days after such copy of the determination is mailed to his or its last known address as reflected by Commission records, such determination shall be final for all purposes and benefits shall be paid or denied in accordance therewith; provided, that within the same period of time, an examiner may file an appeal from such determination, or may, if he discovers error in connection therewith or additional information not previously available, reconsider and redetermine any such determination, and such redetermination shall replace such determination and shall become final unless an appeal therefrom is filed by such claimant or such individual or organization within twelve (12) calendar days after a copy of such redetermination was mailed to his or its last known address as reflected by Commission records. ~~[If an appeal is duly filed, benefits with respect to the period of time prior to the final determination of the Commission shall be paid only after such determination; provided, that if an appeal tribunal affirms a determination of an examiner, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no chargeback shall be made to the employer's account by reason of such payment.]~~

"Notwithstanding any provision in this Act under which benefits may be paid or denied, benefits shall be paid promptly in accordance with a determination or redetermination of an examiner, a decision of an appeal tribunal, the Commission or a reviewing court, on the issuance of that determination, redetermination or decision (regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review, or the pendency of that application, filing, or petition), unless and until that determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied in accordance with the modifying or reversing redetermination or decision. If a determination or decision is finally modified or reversed to deny benefits, no chargeback shall be made to the employer's account by reason of payments made to the claimant for any benefit period with respect to which he is finally denied benefits, and any benefits paid to the claimant which were not in accordance with the final decision shall be refunded by the claimant to the Commission or, in the discretion of the Commission, shall be deducted from future benefits payable to him under this Act."

"(f) Procedure: The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, or other individuals or organizations, and the conduct of hearings and appeals shall be in accordance with rules or regulations prescribed by the Commission for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim and all ~~[-All]~~ testimony at any hearing upon a disputed claim shall be recorded ~~[-but need not be transcribed unless the disputed claim is further appealed].~~"

Sec. 7. Subdivisions (2), (3), (5), and (10), Subsection (a), Section 6-A, Texas Unemployment Compensation Act, as amended (Article 5221b-4a, Vernon's Texas Civil Statutes), are amended to read as follows:

"(2) There is a national 'on' indicator for a week if, for the period consisting of that week and the immediately preceding twelve (12) weeks ~~[the United States Secretary of Labor determines that, for each of the three (3) most recent calendar months ending before such week]~~, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (4.5%). The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four (4) of the most recent six (6) calendar quarters ending before the close of that period.

"(3) There is a national 'off' indicator for a week if, for the period consisting of that week and the immediately preceding twelve (12) weeks ~~[the United States Secretary of Labor determines that, for each of the three (3) most recent calendar months ending before such week]~~, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (4.5%). The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four (4) of the most recent six (6) calendar quarters ending before the close of that period."

"(5) There is a State 'off' indicator for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that, for the period consisting of such week and the immediately preceding twelve (12) weeks, either paragraph (A) or (B) of subdivision (4) is not satisfied ~~[the rate of insured unemployment (not seasonally adjusted) under this Act:~~

~~[(A) was less than one hundred and twenty percent (120%) of the average of such rates for the corresponding 13 week period ending in each of the preceding two (2) calendar years, or~~

~~[(B) was less than four percent (4%)].~~ Provided, that with respect to benefits for weeks of unemployment beginning after December 31, 1977, the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this section as if subdivision (4) did not contain paragraph (A) thereof, and as if the figure 'four' (4) contained in paragraph (B) thereof were 'five' (5); except that, notwithstanding any other provision of this Section, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator."

"(10) 'Exhaustee' means an individual who, with respect to any benefit period of unemployment in his eligibility period:

"(A) has received, prior to such benefit period, all of the regular benefits that were available to him under this Act or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his current benefit year that includes such benefit period;

"Provided, that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wage credits that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits, or

"(B) had a benefit year that expired prior to such benefit period and has no, or insufficient, wage credits on the basis of which he could establish a new benefit year that would include such benefit period; and

"(C) (i) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, or such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and

"(ii) has not received and is not seeking unemployment benefits under the unemployment compensation law of ~~[the Virgin Islands or of]~~ Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee."

Sec. 8. Subsection (g), Section 6-A, Texas Unemployment Compensation Act, as amended (Article 5221b-4a, Vernon's Texas Civil Statutes), is amended by adding Subdivision (6) to read as follows:

"(6) Notwithstanding any other provision in this Act, with respect to weeks of unemployment beginning after December 31, 1978, extended benefit payments based on benefit wage credits earned from a state, or any political subdivision thereof, or any instrumentality of any one (1) or more of the foregoing which is wholly owned by one (1) or more states or political subdivisions, shall be charged to the employer at the rate of one hundred per cent (100%) rather than at the rate of fifty per cent (50%) as provided for other employers under this Act, and any such employer which is a taxed employer shall receive notice that its maximum potential chargeback may be increased by as much as fifty percent (50%) rather than twenty-five percent (25%) as provided for other employers."

Sec. 9. Subdivisions (2)(B) and (5), Subsection (c), Section 7, Texas Unemployment Compensation Act, as amended (Article 5221b-5, Vernon's Texas Civil Statutes), are amended to read as follows:

"(2)(B) To each employer to whom notice of an initial claim has not already been mailed under subsection 6(b) of this Act, and whose account is potentially chargeable with benefits as the result of such initial claim and payment of benefits, a notice of his maximum potential chargebacks shall be mailed when benefits are first paid and an opportunity afforded for protest of his potential chargebacks. If any such employer desires to protest his potential chargebacks, he shall, within twelve (12) ~~ten (10)~~ days after such notice was mailed to him, mail his protest, including a statement of the facts upon which his protest is based, to the Commission at Austin, Texas. Any employer who does not protest his potential chargebacks within twelve (12) ~~ten (10)~~ days after notice was mailed to him shall be deemed to have waived his right to protest such chargebacks. If a timely protest is filed, the examiner shall promptly decide the issues involved in such protest and shall mail a notice of his decision thereon to the protesting employer. Such decision shall become final twelve (12) days from the date of mailing thereof, unless such employer mails to the Commission at Austin, Texas, a written appeal therefrom within such twelve (12) days. Administrative review hereunder shall be in accordance with Commission rules or regulations, and appeals to the Courts shall be permitted only after such employer has exhausted his administrative remedies (not including a motion for rehearing) before the Commission, and within the time prescribed by subsection 6(h) and subsection 6(i) of this Act with respect to Commission decisions on benefits. Venue and jurisdiction of appeals to the Courts with respect to chargebacks shall be the same as venue and jurisdiction of suits to collect contributions and penalties under this Act.

"If notice of the claim has been sent previously to the employer under the provisions of Section 6 of this Act, the employer shall be mailed a notice of the amount of his potential chargeback resulting from the claim, and may, within twelve (12) ~~ten (10)~~ days from the date such notice was mailed, protest any clerical or machine error as to amounts. Such employer shall be mailed a decision on such protest and may appeal within twelve (12) days from the date notice of such decision was mailed to him."

"(5) The replenishment ratio for a calendar year is a quotient, stated to the nearest hundredth, derived from the following numerator and denominator.

"The numerator of the replenishment ratio shall be the ~~[total]~~ amount of benefits paid from the Unemployment Compensation Fund during the twelve (12) months ending September 30[,] of the preceding year after deductions have been made for ~~[, that are based on wage credits from taxed employers, less for the same period]:~~

~~"(A) benefit warrants canceled, [the total amount of refunds of regular benefits that were based on wage credits from taxed employers and fifty percent (50%) of the refunds of extended benefits that were based on wage credits from taxed employers, and]~~

~~"(B) repayment of benefits which have been overpaid [the total amount of regular benefit warrants canceled that were based on wage credits from taxed employers and fifty percent (50%) of the extended benefit warrants canceled that were based on wage credits from taxed employers], and~~

~~"(C) benefits paid which are repayable from reimbursing employers, the federal government, or any other governmental entity [fifty percent (50%) of the extended benefits paid that were based on wage credits from taxed employers].~~

"The denominator of the replenishment ratio shall be the total amount of chargebacks to the accounts of all taxed employers during the twelve (12) months ending September 30, of the preceding year.

"The replenishment ratio for each calendar year shall be determined prior to the due date of the first contribution payment with respect to wages for employment paid in that year and such replenishment ratio thus determined shall not be affected or revised by virtue of any subsequent adjustment of any chargebacks of any employer."

Sec. 10. Subsections (i) and (j), Section 7-A, Texas Unemployment Compensation Act, as amended (Article 5221b-5a, Vernon's Texas Civil Statutes), are amended to read as follows:

"(i) Authority to Terminate Elections: If any reimbursing employer ~~[nonprofit organization]~~ is delinquent in making reimbursements as provided under this Section, the Commission may terminate such reimbursing employer's ~~[organization's]~~ election to make reimbursements as of the beginning of the next taxable year and such termination shall be effective for that and the succeeding taxable year.

"(j) Bond: In the discretion of the Commission, any reimbursing employer ~~[nonprofit organization]~~ (or group of such employers ~~[organizations]~~) that elects to become liable for reimbursements may be required to execute and file with the Commission a surety bond approved by the Commission. The amount of such bond shall be determined in accordance with rules prescribed by the Commission. The Commission may require adjustments to be made in a previously filed bond if it deems such action appropriate. Failure by any reimbursing employer ~~[organization]~~ covered by such bond to pay the full amount of reimbursements when due, together with any applicable interest and penalties provided for under this Act, shall render the surety liable on such bond to the extent of the bond, as though the surety was such employer ~~[organization]~~. If any reimbursing employer ~~[nonprofit organization]~~ fails to make bond when directed to do so by the Commission, the Commission may

terminate such employer's election to make reimbursements as of the beginning of the next taxable year and such termination shall be effective for that and the succeeding taxable year."

Sec. 11. Section 7-A, Texas Unemployment Compensation Act, as added (Article 5221b-5a, Vernon's Texas Civil Statutes), is amended by adding Subsection (m) to read as follows:

"(m) Notwithstanding any other provision in this Act, with respect to benefits paid for weeks of unemployment beginning after December 31, 1978, if the reimbursing employer is a state or political subdivision thereof, or any instrumentality of any one (1) or more of the foregoing which is wholly owned by one (1) or more states or political subdivisions, that employer shall pay one hundred per cent (100%) of the extended benefits based on benefit wage credits earned from that employer instead of one-half (1/2) or fifty per cent (50%) as indicated for other employers covered under this Act."

Sec. 12. The Texas Unemployment Compensation Act, as amended (Article 5221b-1 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 7-B to read as follows:

"Section 7-B. SPECIAL CONTRIBUTIONS FOR GOVERNMENTAL EMPLOYERS. (a) Notwithstanding any provision in this Act to the contrary, after December 31, 1977, a governmental employer subject to the provisions of this Act and which pays contributions shall pay in accordance with the following.

"(b) Contributions:

"(1) Payments: Contributions shall accrue and become payable by each governmental employer for each calendar year, or portion thereof, in which it is subject to this Act with respect to wages for employment paid during the calendar year or portion thereof. The contributions shall become due and be paid by each such employer to the Commission for the fund in accordance with rules prescribed by the Commission and shall not be deducted in whole or in part from the wages of individuals in the employer's employ.

"(2) Rate of Contributions: Each governmental employer shall pay contributions equal to one per cent (1%) of the wages paid by the employer with respect to employment during each quarter for calendar years 1978 and 1979. The contribution rate for calendar year 1980 shall be a percentage, adjusted to the next higher one-tenth of one per cent (1/10 of 1%), based on the following numerator and denominator: The numerator shall include all benefits paid during the preceding two (2) calendar years based on wage credits earned from employers which pay contributions under this Section (not including benefit payments which are reimbursable from any other source), and the denominator shall include the total wages paid by all employers which pay contributions under this Section for the same period. The contribution rate for calendar year 1981 and each calendar year thereafter shall be derived in the same manner as for calendar year 1980, except the numerator and denominator shall include benefit payments and wages paid by the employers for only the one calendar year prior to the calendar year for which the rate is computed.

"Provided, if the total benefits paid during the period used for determining the rate are greater than the total contributions paid by these same employers for the same period, the amount of benefits paid in excess of the amount of contributions collected for the period shall be added to the numerator in determining the contribution rate, and if the amount of benefits paid for the period is less than the contributions paid by these employers for the same period, that amount shall be deducted from the numerator in computing the rate; provided, that in no year shall the contribution rate under this Section be less than one-tenth of one per cent (1/10 of 1%).

"(3) Interest and Penalties on Past Due Contributions: If any governmental employer shall fail to pay contributions due under this Section on the date on which they are due and payable as prescribed by the Commission, the employer shall be subject to the same penalties as provided for other employers under subsection 14(a) of this Act.

"(c) Collections:

"(1) The provisions for collecting delinquent contributions provided under Section 14 of this Act shall be applicable with respect to governmental employers.

"(2) If any governmental employer is delinquent in payment of contributions or reimbursements under any section of this Act, the Commission shall notify the Comptroller of Public Accounts in writing of the name of the governmental employer and the amount of the delinquency. On receipt of this notice, the Comptroller shall pay a sum to the Commission in the amount of the delinquency from any funds which would otherwise be due from the State to the delinquent governmental employer.

"(d) Reports: Each governmental employer shall keep such records and file such reports with the Commission with respect to individuals in its employment as the Commission may prescribe by rules. A governmental employer failing to keep or file these reports when due shall be subject to the same penalties as provided for other employers under subsection 14(c) of this Act.

"(e) Separate Accounting: Benefit payments based on wages from employers under this Section shall be paid from the fund; provided, the Commission shall establish separate accounting with respect to benefits paid and contributions collected under this Section and these benefits and contributions shall not be used in determining contribution rates under Section 7 of this Act."

Sec. 13. Subdivisions (2), (3), and (4) of Subsection (b), Section 8, Texas Unemployment Compensation Act, as amended (Article 5221b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

"(2) A State [~~The State of Texas, a branch or department thereof,~~] or an instrumentality thereof may voluntarily elect [~~(except with respect to a State hospital or a State institution of higher education) coverage as a subject employer,~~] for a period of not less than two (2) calendar years, [~~and shall for the same period file an election~~] to pay reimbursements for benefits paid [~~as provided in Section 7-A of this Act~~] or to pay contributions [~~as provided in Section 7 of this Act~~].

"(3) A political subdivision of a State or any instrumentality thereof may voluntarily elect, for a period of not less than two (2) calendar years, to pay reimbursements for benefits paid or to pay contributions [~~the State of Texas may voluntarily elect coverage for not less than two (2) calendar years and such election may be made with respect to (A) all services performed for the political subdivision, or (B) all services performed for all institutions of higher education and all hospitals operated by the political subdivision, or (C) all services performed for one (1) or more separate parts or divisions of the political subdivision; and, if such election is made, the employer shall pay reimbursements for benefits as provided in Section 7-A of this Act~~].

"(4) An election by an employer under subsection 8(b)(2) or 8(b)(3) of this Act to be a reimbursing employer shall be made within forty-five (45) days after the date notice is mailed to the employer that it is subject to the provisions of this Act. The election will be effective January 1 of the year in which the employer became subject to the Act. All elections under subsections 8(b) (2) and 8(b) (3) of this Act may be terminated after the minimum required period by filing with the Commission a written request for termination not later than thirty (30) days preceding the last day of a calendar year, and such termination shall be effective January 1 of the following year."

Sec. 14. Subdivision (1) of Subsection (c), Section 8, Texas Unemployment Compensation Act, as amended (Article 5221b-6, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) No employing unit shall cease to be an employer subject to this Act except as of the first day of January of any calendar year, and only then if such employer files with the Commission, within the period from January 1 through March 31 of such year, a written application for termination of coverage, and the Commission finds that the employing unit was not an employer as defined in subsection 19(f) of this Act during the preceding year ~~there were no twenty (20) different days within the preceding calendar year, each day being in a different calendar week, during each of which days such employing unit employed one (1) or more individuals in employment subject to this Act and that said employer did not pay any wages in any quarter of the preceding year in the total amount of One Thousand Five Hundred Dollars (\$1,500) or more; provided, that, if the employing unit is an employer subject to this Act under subsection 19(f)(3), the phrase 'four (4) or more individuals' shall be substituted for the phrase 'one (1) or more individuals' in this subparagraph; and provided further, that this subsection has no applicability to an employer subject to this Act under subsection 19(f) (6)]."~~

Sec. 15. Subsections (d) and (f), Section 19, Texas Unemployment Compensation Act, as amended (Article 5221b-17, Vernon's Texas Civil Statutes), are amended to read as follows:

"(d) 'Contributions' means the money payments (taxes) to the State Unemployment Compensation Fund required under ~~Section 7 of~~ this Act. Employers who pay contributions under this Act may be referred to as 'taxed employers.'"

"(f) 'Employer' means:

"(1) Any employing unit, other than one to which paragraph (3) or (6) below is applicable, which during any calendar quarter in the current calendar year or the preceding calendar year paid wages of One Thousand Five Hundred Dollars (\$1,500) or more, or on each of some twenty (20) days during the current calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one (1) individual in employment for some portion of the day;

"(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

"(3) Any employing unit which is a nonprofit organization as described in Section 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from income tax under Section 501(a) of such Code and which on each of some twenty (20) days during the current calendar year or during the preceding calendar year, each day being in a different calendar week, employed four (4) or more individuals in employment for some portion of the day;

"(4) Any employing unit which has elected to become an employer under Section 8 of this Act;

"(5) Any employing unit which is liable for the payment of taxes under the Federal Unemployment Tax Act for the current calendar year;

"(6) A state or any political subdivision thereof, or any instrumentality of any one (1) or more of the foregoing which is wholly owned by one (1) or more states or political subdivisions ~~[A hospital or an institution of higher education (or a group of such organizations) located in this State and operated by this State or by this State and one (1) or more other states or by an instrumentality thereof for which services are performed which constitute employment; provided, that any such hospital or institution shall be a reimbursing employer under the provisions of Section 7 A of this Act];~~

"(7) Any employing unit not an employer by reason of any other paragraph of this subsection which, as a condition for approval of this Act for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an 'employer' under this Act[-] ;

"(8) Any employing unit which paid wages for or employed individuals in agricultural labor in accordance with the following: Notwithstanding any other provision in this Act, agricultural labor as defined in subsection 19(g)(5)(B) of this Act shall constitute employment if performed for any employing unit which during any calendar quarter in the current calendar year or the preceding calendar year paid wages in cash of Twenty Thousand Dollars (\$20,000) or more for such services, or on each of some twenty (20) days during the current calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least ten (10) or more individuals in that employment for some portion of the day; provided that,

"(A) for purposes of this provision, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of the crew leader,

"(i) if:

"(I) the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

"(II) substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

"(ii) if the individual is not an employee of such other person;

"(B) for purposes of this provision, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of the crew leader under paragraph (A):

"(i) the other person and not the crew leader shall be treated as the employer of that individual; and

"(ii) the other person shall be treated as having paid cash remuneration to that individual in an amount equal to the amount of cash remuneration paid to that individual by the crew leader (either on his behalf or on behalf of the other person) for the agricultural labor performed for the other person;

"(C) for purposes of this provision, the term 'crew leader' means an individual who:

"(i) furnishes individuals to perform agricultural labor for any other person,

"(ii) pays (either on his behalf or on behalf of the other person) the individuals so furnished by him for the agricultural labor performed by them, and

"(iii) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person;

"(D) for the purposes of this provision, wages shall not include remuneration paid in any medium other than cash;

"(E) this provision shall not be applicable to agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

"(9) Any employing unit which paid wages for domestic service in accordance with the following: Notwithstanding any other provision in this Act, domestic service in a private home, local college club, or a local chapter of a college fraternity or sorority shall constitute employment if performed for any employing unit which during any calendar quarter in the current calendar year or the preceding calendar year paid wages in cash of One Thousand Dollars (\$1,000) or more for the domestic service, provided that an employer under this provision shall not be treated as an employer with respect to wages paid for any service other than domestic service

unless the employer is treated as an employer under some other provision of this Act with respect to the service."

Sec. 16. Paragraphs (D) and (F), Subdivision (3), Subsection (g), Section 19, Texas Unemployment Compensation Act, as amended (Article 5221b-17, Vernon's Texas Civil Statutes), are amended to read as follows:

"(D) The term 'employment' shall include any service (other than service which is deemed 'employment' under the provisions of subsections (g)(2) and (g)(3) of this Section or the parallel provisions of another state's law) performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation ~~for in the Virgin Islands~~) by a citizen of the United States as an employee of an American employer, if:

"(i) the employer's principal place of business in the United States is located in this State; or

"(ii) the employer has no place of business in the United States, but:

"(I) the employer is an individual who is a resident of this State; or

"(II) the employer is a corporation which is organized under the laws of this State; or

"(III) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one (1) other state; or

"(iii) none of the criteria of divisions (i) and (ii) of this subparagraph is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this State."

"(F) The term 'United States' when used in a geographical sense ~~as used in subsection 19(g)(3)(D) of this Act~~ includes the States, the District of Columbia, ~~and~~ the Commonwealth of Puerto Rico, and the Virgin Islands."

Sec. 17. Subdivision (5), Subsection (g), Section 19, Texas Unemployment Compensation Act, as amended (Article 5221b-17, Vernon's Texas Civil Statutes), is amended to read as follows:

"(5) The term 'employment' shall not include:

"(A) Service with respect to which unemployment compensation is payable under an Unemployment Compensation System established by an Act of Congress; provided that the Commission is hereby authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in subsection 11(b) of this Act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act.

"(B) Agricultural labor, which is hereby defined as all services performed:

"(i) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

"(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

"(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing

Act, as amended (46 Stat. 1550, 3; 12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

"(iv) (I) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

"(II) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (I) above, but only if such operators produced more than one-half (1/2) of the commodity with respect to which such service is performed;

"(III) the provisions of subparagraphs (I) and (II) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;[-]

"(v) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

"As used in this subsection, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(C) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

"(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) years in the employ of his father or mother;

"(E) Service performed in the employ of a church, convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

"(F) Services performed in the employ of a political subdivision or any instrumentality thereof which is wholly owned by one (1) or more political subdivisions:

"(i) as an elected official;

"(ii) as a member of a legislative body;

"(iii) as a member of the judiciary;

"(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

"(v) in a position which, under or pursuant to law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week [Service performed in the employ of this State or of any other state, or of any political subdivision thereof, or any instrumentality of any one (1) or more of the foregoing which is wholly owned by this State or by one (1) or more states or political subdivisions; and any service performed in the employ of any instrumentality of this State or of one (1) or more states or political subdivisions to the extent that the instrumentality is with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 3301 of the Internal Revenue Code of 1954 provided that effective January 1, 1972, this

~~exclusion from the definition of employment is not applicable to services performed in the employ of a State or instrumentality thereof for a State hospital or State institution of higher education];~~

“(G) Service performed in the employ of a foreign government (including services as a consular or other officer or employee, or a nondiplomatic representative);

“(H) Service performed in the employ of an instrumentality wholly owned by a foreign government (i) if the service is of a character similar to that performed in foreign countries by the employees of the United States Government or of an instrumentality thereof; and (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

“(I) Service performed as a student nurse in the employ of a hospital or a nurses’ training school by an individual who is enrolled and is regularly attending classes in a nurses’ training school chartered or approved pursuant to State law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to State law;

“(J) Service performed by an individual for a person as an insurance agent or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

“(K) Service performed by an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

“(L) Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit’s duly approved election are deemed to be performed entirely within such agency’s state or under such federal law;

“(M) Service performed in the employ of the United States Government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this Act, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this Act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided, that if this State shall not be certified for any year by the Social Security Board or successor under Section 1603(c) of the Internal Revenue Code of 1954, the payments required by such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in subsection 14(j) of this Act with respect to contributions erroneously collected;

“(N) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

~~“(O) Service performed in the employ of a nonprofit, religious, or State school which is not an institution of higher education;]~~

“(P) Service performed in the employ of a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is

impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitative or remunerative work;

"(Q) Service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

"(R) Service performed by an inmate of a custodial or penal institution which is owned or operated by the State or a political subdivision thereof ~~(in the employ of a hospital in a State prison or other State correctional institution, by an inmate of the prison or correctional institution];~~

"(S) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

"(T) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and accredits its students, if such individual is a full-time student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employing unit, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers; and

"(U) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital[-];

"(V) Service performed on a fishing vessel normally having a crew of fewer than ten (10) if the crew member's reimbursement for services performed is a share of the catch and the services are determined not to be employment under the Federal Unemployment Tax Act."

Sec. 18. Subsections (k) and (n), Section 19, Texas Unemployment Compensation Act, as amended (Article 5221b-17, Vernon's Texas Civil Statutes), are amended to read as follows:

"(k) 'State' includes, in addition to the States of the United States of America, Puerto Rico, ~~and~~ the District of Columbia, and the Virgin Islands."

"(n) 'Wages' means all remuneration paid for personal services, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include:

"(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to Six Thousand Dollars (\$6,000) ~~Four Thousand Two Hundred Dollars (\$4,200)]~~ with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during any such calendar year;

"(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents), or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

"(A) Retirement, or

"(B) Sickness or accident disability, or

“(C) Medical or hospitalization expenses in connection with sickness or accident disability, or

“(D) Death;

“(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

“(4) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six (6) calendar months following the last calendar month in which the employee worked for such employer;

“(5) Any payment made to, or on behalf of, an employee or his beneficiary:

“(A) From or to a trust described in Section 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under Section 501(a) of said Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

“(B) Under or to an annuity plan which, at the time of such payment, is a plan described in Section 403(a) of the Internal Revenue Code of 1954, or

“(C) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code of 1954;

“(6) The payment by an employer (without deduction from the remuneration of the employee):

“(A) Of the tax imposed upon an employee under Section 3101 of the Internal Revenue Code of 1954 (or the corresponding section of prior law);

“(7) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

“(8) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of sixty-five (65), if he did not work for the employer in the period for which such payment is made;

“(9) Within any calendar year that part of an individual's remuneration from a single employer which, after Six Thousand Dollars (\$6,000) ~~Four Thousand Two Hundred Dollars (\$4,200)~~ has been paid him upon which contributions have been paid under the unemployment law of any state, is paid with respect to employment.”

Sec. 19. Subsection (h) of Section 6-A, Subsection (e) of Section 7, and Subsection (q) of Section 19, Texas Unemployment Compensation Act, as amended (Articles 5221b-4a, 5221b-5, and 5221b-17, Vernon's Texas Civil Statutes), are repealed.

Sec. 20. All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed but such repeal may in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission, which have accrued thereunder, including, but not limited to, the right to collect contributions, interest, or penalties that have accrued, and the right of prosecution for violation of any provision thereof; nor may this repeal in any way be construed as forfeiting or waiving the rights of any individual to benefits which accrued thereunder; provided, that the Commission's determination of the benefit year, the benefit amount for total unemployment, and the duration of benefits made with respect to an initial claim filed prior to January 1, 1978, shall be effective for the remainder of that benefit year.

Sec. 21. The amendment to Subsection (b), Section 3, Texas Unemployment Compensation Act, as amended (Article 5221b-1, Vernon's Texas Civil Statutes), contained in Section 1 of this Act takes effect on October 1, 1977. All other provisions of this Act take effect on January 1, 1978.

Sec. 22. If any provision of this Act required by Public Law 94-566 is held invalid as to its application to any classification of employees, the invalidity does not affect any provision of this Act which can be given effect without the invalid provision or application.

Sec. 23. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

MAUZY
JONES OF TAYLOR

The amendment was read and was adopted.

Senator Mauzy offered the following amendment to the bill:

Amend S.B. 896 to conform the caption to the body of the bill.

MAUZY
JONES OF TAYLOR

The amendment was read and was adopted.

Senator Meier offered the following amendment to the bill:

Amend S.B. 896 by adding a new Section 9 to read as follows, and renumbering the remaining sections accordingly:

Sec. 9. Subsection (e), Section 7, Texas Unemployment Compensation Act, as amended (Article 5221b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

“(e) Notwithstanding any provision of this Act, no political subdivision of the State of Texas shall be required to make contributions under the Texas Unemployment Compensation Act during the time such political subdivision has been granted an injunction pendente lite in a constitutional challenge of Public Law 94-566. [The contribution rate of each employer for the calendar years ending on or before December 31, 1968, shall be determined in accordance with the provisions of this Section prior to this amendment; the contribution rate of each employer for each calendar year commencing after December 31, 1968, shall be determined in accordance with the provisions of this Section. Nothing in this Section shall be construed as authorizing or requiring a refund of any contributions or portions thereof due and paid prior to January 1, 1969, under this Section, or as waiving the right to collect any contributions or portions thereof due and unpaid under this Section on December 31, 1968.]”

The amendment was read.

Question Shall the amendment be adopted?

MESSAGE FROM THE HOUSE

House Chamber
April 21, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. No. 820 failed to pass to third reading. April 20, 1977, record vote no. 9.

43 Yeas

98 Nays

3 Present-Not Voting

H.B. 679, relating to the promotion of prostitution; amending Subsection (a), Section 43.03, Penal Code.

The House Concurred in Senate Amendments to House Bill No. 145 by a Non Record Vote.

H.B. No. 678, Relating to the penalties for prostitution; amending Subsection (c), Section 43.02, Penal Code.

H.C.R. 54, Granting Randall Herman, et al., permission to sue the state.

H.C.R. No. 72, Permitting Jim Weatherby to sue the state.

H.C.R. No. 86, Granting Pennsylvania Truck Line, Inc. permission to sue the state.

H.C.R. No. 89, Granting Morris Corbray permission to sue the state.

H.C.R. No. 96, Whereas, Mr. Robert M. Castillo and wife Tina Castillo allege that their son, Robert A. Castillo, was fatally injured upon the premises of the Austin State School, 2203 West 35th Street, Austin, Texas; and

H.C.R. No. 105, Permitting the estate of Harry L. Durbin to sue the state.

H.C.R. No. 111, Granting Sue Chambers permission to sue the State of Texas and the University of Texas Health Science Center at San Antonio.

H.C.R. No. 109, Authorizing C. K. Koelle to sue the state.

S.B. No. 757, Relating to the establishment, operation, and maintenance of a foreign trade zone at the Houston port of entry.

S.B. No. 939, Relating to the civil liability and penalties for contracting for, charging or receiving certain interests, time price differential or other charges and for failing to perform certain duties in consumer credit transactions; and declaring an emergency.

S.B. 258, Relating to the maximum renewal fee for an optometrist license; amending Subsection (a), Section 4.01, Texas Optometry Act (Article 4552-4.01, Vernon's Texas Civil Statutes).

S.B. 388, Relating to legal holidays for banks or trust companies; amending Section 2, Chapter 230, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 342-910a, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 567, Relating to the sale, transportation, and methods of taking bait fish; providing penalties; amending Chapter 66, Parks and Wildlife Code, by adding Section 66.010; amending Subdivision (5) of Section 47.001 and Subsection (a) of Section 47.014, Parks and Wildlife Code; repealing certain local minnow laws; making conforming amendments to local fish sale laws.

S.B. 604, Relating to refunding of certain tuition and fees by institutions of higher education; amending Subchapter A, Chapter 54, Texas Education Code, by adding Section 54.006; and declaring an emergency.

S.C.R. 3, Committee to appoint and designate a Texas State Artist. As Amended.

S.C.R. No. 17, Authorizing Terry Bishop to sue the State—Pan American University.

S.C.R. No. 25, Granting Paul Johnston, Mary Elizabeth Jones, David D. Johnston, Patricia Ann Wisenand and Hugette C. Johnston permission to sue the state.

S.C.R. No. 34, Granting Gale Morris Woodruff, individually, and Rhodes Erwin Morris and Annetta Morris Weston, claiming under Earl Morris, deceased, jointly or severally, permission to sue the Trinity River Authority.

S.C.R. No. 37, Granting Mrs. Burnet Brown permission to sue the State.

S.C.R. No. 39, Granting Shirley Riley permission to sue the State.

S.C.R. No. 44, Granting Winnwood Manor Nursing Home permission to sue the state.

S.C.R. No. 46, Granting Hi-Way Billboards, Inc. permission to sue the State.

S.C.R. No. 54, Granting Goodberry Construction Co. permission to sue North Texas State University.

S.C.R. No. 55, Granting Sue Greer permission to sue the state.

S.C.R. No. 58, Authorizing E. W. Hable and Sons, Inc., to sue the state.

S.C.R. No. 70, Granting Shirley Danesi, et al., permission to sue the state.

S.B. 77, A bill to be entitled An Act amending Section A, Part 1, Article 3.39, Insurance Code, as amended, to provide that a domestic life insurance company may invest its several funds and accumulations in corporate first mortgage bonds, notes and debentures, bills of exchange or other commercial notes or bills or obligations of corporations meeting standards and specifications as set out in Paragraph 10 and in debentures of public utility corporations meeting certain standards and earning a specified sum amount in relation to interest payable as set out in Paragraph 13; and declaring an emergency.

S.B. 78, A bill to be entitled An Act amending Article 3.40, Insurance Code, as amended; relating to investments by insurance companies in certain securities; permitting such companies to acquire, secure, hold, retain, and convey certain mineral interests and royalties, including producing and overriding royalties as specified under the conditions set out in Subsection 5 of the amended article; restating the remainder of Article 3.40 in its entirety, as last amended, with no further change whatsoever repealing all laws in conflict therewith; and declaring an emergency.

S.B. 193, A bill to be entitled An Act relating to the exemption from inheritance taxes of community property interests in annuities and individual retirement accounts exempt from federal estate taxes under Sections 2039(d) and 2039(e), respectively, of the Internal Revenue Code of 1954.

S.B. 87, A bill to be entitled An Act relating to certain unauthorized uses of food stamp coupons and of authorizations to purchase food stamp coupons; providing penalties; amending the Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes), by adding Section 7-B.

S.B. 393, Relating to the Battleship Texas Commission; amending Sections 2, 6, and 13, Chapter 139, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6145-2, Vernon's Texas Civil Statutes). (With amendments)

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

EXECUTIVE SESSION

The President announced that the time had arrived for an Executive Session of the Senate. (Senator McKnight having given Notice on yesterday.)

Senator Mauzy moved that Senate Rule 41 be suspended in order to consider nominations scheduled for today in open session.

The motion was lost by the following vote: Yeas 15, Nays 16.

Yeas: Aikin, Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Sherman, Truan.

Nays: Adams, Andujar, Creighton, Hance, Harris, Jones of Taylor, Kothmann, Lombardino, McKnight, Meier, Mengden, Moore, Santiesteban, Snelson, Traeger, Williams.

Accordingly, the President at 11:10 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

At the conclusion of the Executive Session, the President called the Senate to order as In Legislative Session at 11:29 o'clock a.m.

The President asked if there were requests to sever nominees.

There were no requests to sever.

Senator McKnight moved confirmation of those nominees reported by the Committee on State Affairs, Sub-Committee on Nominations and considered in Executive Session.

The following nominees were confirmed by the following vote: Yeas 31, Nays 0.

NOMINEES CONFIRMED

To be Members of the FINANCE COMMISSION OF TEXAS: Oscar Brookshire, Angelina County (term of 2/7/77-2/1/83); E. Michael Lallinger, Harris County (term of 2/23/77-2/1/83); Gerald Hicks Smith, Harris County (reappointment-term of 9/10/76-2/1/81); Raymond L. Thompson, Oldham County (term of 3/24/77-2/1/83); James Ross Avant, Frio County (term of 2/14/77-2/1/83).

To be a Member of the Board of Regents NORTH TEXAS STATE UNIVERSITY: Albert Gates, Webb County.

SENATE BILL 896 ON SECOND READING

The Senate resumed consideration of pending business, the same being S.B. 896 on its second reading and passage to engrossment, with an amendment pending.

Question - Shall the amendment be adopted?

On motion of Senator Meier and by unanimous consent, the amendment was withdrawn.

The bill as amended was passed to engrossment.

RECORD OF VOTES

Senators Creighton, Harris, Meier and Hance asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 896 ON THIRD READING

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 896 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabec, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Truan, Williams.

Nays: Meier, Traeger.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Meier, Harris, Creighton, Traeger, Hance and Sherman asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 609 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 609, A bill to be entitled An Act relating to active duty, assignment, and compensation of former district judges; amending Section 5a, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

HOUSE BILL 609 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 609** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 938 ON SECOND READING

Senator Sherman moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 938, Relating to parole commissioners and to the operations of the Board of Pardons and Paroles; amending Section 14A, Article 42.12, Code of Criminal Procedure, 1965, as added.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Adams, Aikin, Andujar, Braecklein, Creighton, Farabee, Hance, Jones of Taylor, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Traeger, Williams.

Nays: Brooks, Clower, Doggett, Harris, Jones of Harris, Kothmann, Mauzy,

The President then laid the bill before the Senate on its second reading and passage to engrossment.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10.

Yeas: Adams, Aikin, Braecklein, Creighton, Farabee, Hance, Harris, Jones of Taylor, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Traeger, Williams.

Nays: Andujar, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Mauzy, Patman, Snelson, Truan.

COMMITTEE SUBSTITUTE SENATE BILL 938 ON THIRD READING

Senator Sherman moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 938** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Adams, Aikin, Braecklein, Clower, Creighton, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Andujar, Brooks, Doggett, Kothmann, Mauzy.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Andujar, Mauzy, Snelson, Jones of Harris, Brooks, Kothmann, Doggett and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 185

Senator Sherman submitted the following Conference Committee Report:

Austin, Texas
April 20, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 185** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHERMAN, Chairman
JONES OF HARRIS
MENGDEN
SCHWARTZ
On the part of the Senate

HANNA, Chairman
CRADDICK
CLOSE
NABERS
MAYES
On the part of the House

By: Sherman

S.B. No. 185

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of certain pipeline companies for the transportation of coal and to the regulation of these pipeline companies as common carriers; amending Articles 6018, 6019, 6023, and 6022, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 6018, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 6018. Pipe line carriers. Every person, firm, corporation, limited partnership, joint stock association or association of any kind whatever;

"1. Owning, operating or managing any pipe line or any part of any pipe line within the State of Texas for the transportation of crude petroleum to or for the public for hire, or engaged in the business of transporting crude petroleum by pipe line; or

"2. Owning, operating or managing any pipe line or any part of any pipe line for the transportation of crude petroleum, to or for the public for hire, and which said pipe line is constructed or maintained upon, over or under any public road or highway, or in favor of whom the right of eminent domain exists; or

"3. Owning, operating or managing any pipe line or any part of any pipe line or pipe lines for transportation to or for the public for hire, of crude petroleum, and which said pipe line or pipe lines is or may be constructed, operated or maintained across, upon, along, over or under the right of way of any railroad, corporation or other common carrier required by law to transport crude petroleum as a common carrier; or

"4. Owning, operating or managing or participating in ownership, operation or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipe line or pipe lines, or part of any pipe line, for the transportation from any oil field or place of production within this State to any distributing, refining or marketing center or reshipping point thereof, within this State, of crude petroleum bought of others;

"5. Owning, operating, or managing, wholly or partially, pipe lines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form; provided that

"a. such person, firm, corporation, limited partnership, joint stock association, or association of any kind apply for and be issued a certificate of public convenience and necessity from the Commission pursuant to the Commission's authority to issue such certificates under Article 6023, Revised Civil Statutes of Texas, 1925, as amended, when the Commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of such pipe line; and provided further that

"b. neither the authority conveyed on the Commission by this Act to issue such certificates and to promulgate rules and regulations governing such pipe lines nor the powers and duties conveyed on such pipe lines by this Act shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Rights Commission and the Texas Water Quality Board, or their successors, to regulate by applicable rules and regulations the acquisition, use, control, disposition, and discharge of water or water rights in Texas; and provided further that

"c. the right of eminent domain granted under this chapter to such pipe lines shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipe line; and provided further that no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Water Rights Commission shall have determined, after public hearing, that such use will not be detrimental to the water supply of the area from which the water is sought to be extracted; and provided further that

"d. the right of eminent domain granted under this chapter to such pipe lines shall not include the power to take land or any interest therein, by exercise of the power of eminent domain, for the purpose of drilling for, mining, or producing any oil, gas, geothermal, geothermal/geopressured, lignite, coal, sulphur, uranium, plutonium, or other mineral. Provided, however, this provision shall not impair the right of any such entity to acquire title to real property for pipe lines, including cooling ponds and related surface installations and equipment; and provided further that

"e. every condemnation award granted under this chapter shall require that the condemnor restore the property which is the subject of the award to its former condition as near as reasonably practicable;

"Is hereby declared to be a common carrier and subject to the provisions of this law. The provisions of this law shall not apply to those pipe lines which are limited in their use to the wells, stations, plants and refineries of the owner and which are not a part of the pipe line transportation system of any common carrier as above defined; nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipe line transportation system."

Sec. 2. Article 6019, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 6019. Control of. It is declared that the operation of common carrier pipe lines as defined by Article 6018, Revised Civil Statutes of Texas, 1925, as amended, is a business in which the public is interested, and is subject to regulation by law. The business of purchasing, or of purchasing and selling crude petroleum, using in connection with such business a pipe line of the class subject to this law to transport the crude petroleum so bought or sold, or the business of transporting coal in whatever form by pipe line for hire in Texas, shall not be conducted, unless such pipe line so used is a common carrier within the purview of this law, and subject to the jurisdiction herein conferred upon the Railroad

Commission. No such common carrier pipe line transporting coal in whatever form shall contract or otherwise agree to transport coal for a term in excess of three years without prior approval of that contract or agreement by the Railroad Commission which approval shall be given upon determination that such contract or agreement is in the public interest in which case such contract or agreement shall be enforceable."

Sec. 3. Article 6023, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 6023. Jurisdiction. Power and authority are hereby conferred upon the Railroad Commission of Texas~~[-]~~ over all common carrier pipe lines as defined by Article 6018, Revised Civil Statutes of Texas, 1925, as amended, ~~conveying oil or gas~~ in Texas, and over all oil and gas wells in Texas, and over all persons, associations or corporations owning or operating pipe lines in Texas, and over all persons, associations and corporations owning or engaged in drilling or operating oil or gas wells in Texas; and all such persons, associations and corporations and their pipe lines, oil and gas wells are subject to the jurisdiction conferred by law upon the Commission, and the Commission is authorized and empowered to make all necessary rules and regulations for the government and regulation of such persons, associations and corporations and their operations~~[-]~~ and is further authorized, empowered, and directed to issue certificates of public convenience and necessity to pipe lines transporting coal in whatever form or mixture for hire in Texas when the Commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide such transportation as economically or efficiently as the proposed pipe line, provided that in so doing the Commission may not issue a permit for or attempt to regulate in any manner the condemnation, appropriation, or acquisition of surface or ground water in Texas; and provided further that the Commission shall not issue a permit, certificate, or any authority to any applicant whose rates and charges are not regulated by government authority, either State or Federal, and that such State or Federal regulations insure to the public and to the ultimate electric consumer that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group and provided further that the Commission shall not issue a permit, certificate, or any authority to any applicant whose pipe line transporting coal in whatever form unless such pipe line transporting coal in whatever form is to be buried at least 36 inches below the surface, except in such instances in which the Commission specifically exempts the 36-inch depth requirement, and unless such pipe line transporting coal in whatever form conforms to all applicable State or Federal regulations concerning the operation, maintenance, and construction of that same pipe line; the Commission shall condition the issuance of a certification upon the requirement that the pipe line company shall take no more than 50 feet in width of right-of-way under the power of eminent domain, except for temporary work areas adjacent to the right-of-way and then not to exceed 100 feet in width for the duration of the construction period only and provided that any condemnation award granted under this chapter shall take into account the damages to the remainder caused by the exercise of eminent domain for such temporary work areas; and the Attorney General shall enforce the provisions of this title by injunction or other adequate remedy and as otherwise provided by law. The Commission shall seek and act upon the recommendations of the Texas Air Control Board, the Texas Water Quality Board, the Governor's Energy Advisory Council, or their successors of the State responsible for environmental determinations, and shall specify the proper use and disposal of nondischARGEABLE water. The word 'Commission,' as used in this title, shall mean the Railroad Commission of Texas. The word 'Commissioner' shall mean any member of the Railroad Commission."

Sec. 4. Article 6022, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 6022. Eminent domain. Every person, firm, corporation, limited partnership, joint stock association, or association of any kind whatsoever owning, operating or managing any pipe line, or any part of any pipe line within this State ~~[for the transportation of crude petroleum]~~ that is declared by this title to be a common carrier, shall have the right and power of eminent domain in the exercise of which he, it or they may enter upon and condemn the lands, rights of way, easements and property of any person or corporation necessary for the construction, maintenance or operation of his, its or their common carrier pipe line; and shall have the right to lay his, its or their pipes or pipe lines under any railroad, railroad right of way, street railroad, canal or stream in this State; and along and under any street or alley in any incorporated city or town in this State with the consent and under the direction of the governing body of such city or town; and across and under any public road, provided that no pipes or pipe lines shall be laid parallel with and on any public highway closer than fifteen feet from the improved section thereof except with the approval and under the direction of the commissioners court of the county in which such public highway is located; and such other rights in the matter of laying pipes and pipe lines as are conferred by law ~~[Article 1497]~~, subject to the conditions, limitations and restrictions therein ~~[stated]~~; provided that in the event such common carrier pipeline, in the exercise of the power of eminent domain or police power, or any other power granted hereunder, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of such common carrier pipeline. The term 'sole expense' shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility."

Sec. 5. The coal pipeline applicant shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the extent practicable the land which would be subject to the power of eminent domain. The commission shall then conduct public hearings in areas of the state along the prospective pipeline right of way as it shall determine shall be necessary to give property owners an opportunity to be heard. The commission is vested with authority to alter the right of way to meet with local objections.

Sec. 6. The diminished sources of energy available within the State of Texas caused by the depletion of oil and gas reserves; the possibility of the elimination of natural gas for boiler fuel use; the importance to the public of making coal more readily and economically available as an alternative and additional source of energy to electrical utility companies, municipalities, corporations, and other members of the public, by providing for its transportation and delivery at and between different points in this State through pipe lines; the importance of pipe lines transporting coal being granted the power of eminent domain to acquire lands, easements, rights-of-way, and property which are necessary for the construction of such pipe lines serving such public purpose; the importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and filed with the Secretary of the Senate.

SENATE BILL 393 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 393** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **S.B. 393** by deleting from Section 2 on line 7 of page 5 the phrase "The Commission shall retain the revenues" and substitute therefore the following:

"when there are outstanding revenue bonds payable from said net revenues; provided that if there are no such outstanding revenue bonds, then on August 31 of each year while there are no such outstanding bonds, the Commission shall cause to be paid into the State Treasury of the State of Texas for the benefit of the General Revenue Fund all net revenues there on hand in excess of Three Hundred Thousand Dollars (\$300,000)."

Committee Amendment No. 2

Amend **S.B. 393** by adding the following to Section 5 beginning at line 6 on page 6:

"No other person employed by virtue of the provisions of this Act shall receive, as salary, commission, allowance, or compensation, out of the state funds herein appropriated, or from the fund which is to be maintained by the Commission, more than Eighteen Thousand (\$18,000).

The amendments were read.

Senator Brooks moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 393** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Mengden, Ogg, Jones of Harris, Schwartz.

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 978 ON SECOND READING

Senator Ogg moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 978, Relating to the operation of motor vehicles on public beaches and to the construction of parking facilities for beach visitors; providing a penalty; amending Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes), by adding Section 9A and by amending Subsections (a) and (b) of Section 8; amending Section 3, Chapter 659, Acts of the 59th Legislature, Regular Session, 1965, (Section 9, Article 5415d, Vernon's Texas Civil Statutes).

Question - Shall the regular order be suspended?

SENATE BILL 194 WITH HOUSE AMENDMENT

Senator Meier called **S.B. 194** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for **S.B. No. 194**:

A BILL TO BE ENTITLED

AN ACT

Amending Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), to add Sections 12b, 17a, and 27 to set a date certain no later than which the Dallas-Fort Worth Turnpike shall become toll free, providing for the transition of the Dallas-Fort Worth Turnpike to the State Department of Highways and Public Transportation and the gathering of funds for the payment of transition costs and obligations of the Authority then outstanding; providing for the creation of a revolving fund from various sources, including funds from political subdivisions, for financing feasibility studies subject to the prior approval of the State Highway and Public Transportation Commission; permitting, subject to the prior approval of the State Highway and Public Transportation Commission and the commissioners court of the county involved, the pooling of one or more projects now or hereafter constructed within the same county into a "pooled project" and authorizing the issuance of turnpike revenue bonds for the purpose of constructing, improving, extending, or enlarging all or any part of such pooled project and the pledging of revenues from all or any part of such pooled project to the maintenance, repair, operation, and payment of interest and principal of revenue bonds issued to construct, improve, extend, or enlarge all or any part of said pooled project; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is hereby amended by adding Section 17a to read as follows:

"Section 17a. This section shall apply only to the Dallas-Fort Worth Turnpike, constructed pursuant to this Act and presently existing in Dallas and

Tarrant Counties, and to no other project now or hereafter existing, and shall supersede any provisions of this Act in conflict herewith. The Dallas-Fort Worth Turnpike shall become toll free, at 12:00 p.m. on December 31, 1977, or on such earlier date as the tolls may be lifted in the Authority's discretion. The Authority shall, with the approval of the State Highway and Public Transportation Commission, effectuate a plan for an orderly transition of the Dallas-Fort Worth Turnpike to the State Department of Highways and Public Transportation on the date when tolls are lifted. In no event shall the transition plan operate to extend the cutoff time for the collection of tolls set out above. The transition plan shall provide a reasonable time within which said plan shall be consummated and shall include retention by the Authority of toll collection and accounting equipment, toll booths and other equipment, furnishings, and supplies usable by the Authority in the operation of other projects, the provision of funds for unemployment compensation and other payments required by state law in the termination of employment of state employees, the payment of debts and other contractual obligations of the Authority payable from funds of the Dallas-Fort Worth Turnpike, including, but not limited to, the payment to the City of Fort Worth and Tarrant County of their proportionate interests in the balance remaining in the Special Trust Fund created to hold monies paid by said City and County for free use of the Dallas-Fort Worth Turnpike from Oakland Boulevard to the Fort Worth terminus, and such other requisites to the transition as may be appropriate. Money for the payment of such transition expenses, debts, and obligations shall be set aside and retained by the Authority for such purposes in a trust fund with a banking institution chosen by the Authority to be used for such purposes and the payment of expenses appurtenant thereto."

Section 2. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is hereby amended by adding Section 12b to read as follows:

"Section 12b. Texas Turnpike Authority Feasibility Study Fund. Any funds of the Dallas-Fort Worth Turnpike remaining on December 31, 1977, or on such earlier date as the tolls may be lifted in the Authority's discretion, after provision for transition expenses, debts, and obligations pursuant to Section 17a of this Act shall be deposited by the Authority in a fund which shall be entitled 'Texas Turnpike Authority Feasibility Study Fund.' No more than One Million Dollars shall be so deposited on such date. The amount deposited shall be reduced by the cost of feasibility studies, if any, requested by the Authority and approved by the State Highways and Public Transportation Commission between April 4, 1977, and the date of such deposit. Such fund shall be a revolving fund held in trust by a banking institution chosen by the Authority, separate and apart from the funds of any project. No funds from any other existing, presently constructed project shall be added to this fund. Such fund shall be used for the purpose of paying the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of any turnpike project, the study of which thereafter shall be authorized by the Texas Turnpike Authority, subject to the prior approval of the State Highways and Public Transportation Commission. The funds expended from this fund on behalf of any such new project shall be regarded as a part of the cost of such new project, and said fund shall be reimbursed out of the proceeds of turnpike revenue bonds issued for the construction of any such additional project. After this Act is signed by the Governor, all money reimbursable from the sale of bonds of projects whose studies and other expenses have been advanced from funds of the Dallas-Fort Worth Turnpike shall be reimbursed to this fund for use as a part hereof. For the same purposes, the Authority may borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of this fund, pledging or hypothecating thereto any sums therein or to be placed therein.

"In addition to the above, any municipality or group of municipalities, any county or group of counties, or any combination of municipalities and counties, or any private group or combination of individuals within the state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of a turnpike project. The funds expended on behalf of any new project shall be regarded as part of the cost of such new project and, with the consent of the Texas Turnpike Authority, shall be reimbursable to the party paying the expenses out of the proceeds of turnpike revenue bonds issued for the construction of such new project."

Sec. 3. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is hereby amended by adding a new Section 27 as follows:

"Section 27. Project Pooling Within the Same County. Notwithstanding any conflicting provisions in this Act and superseding the same where in conflict with this section, the Authority is hereby authorized and empowered, but only as to projects located wholly within the same county and subject to all the provisions of this section:

"(a) To determine after a public hearing, subject to prior approval by the State Highway and Public Transportation Commission and a resolution approving the same duly passed by the county commissioners court of the county where the projects are located that any two or more projects now or hereafter constructed or determined to be constructed by the authority in the same county shall be pooled and designated as a 'pooled project.' Any existing project or projects may be pooled in whole or in part with any new project or projects or parts thereof. Upon designation such 'pooled project' shall become a 'project' or 'turnpike project' as defined in Section 4(c) of this Act and as used in other sections of this Act. No project may be pooled more than once. Consistent with the trust indenture regarding securing bonds of that project, the resolution of the county commissioners court shall set a date certain when each of the projects being authorized to be pooled shall become toll free.

"(b) Subject to the terms of this Act and subject to the terms of any trust agreement securing the payment of any turnpike revenue bonds, the authority is authorized to provide by resolution from time to time for the issuance of turnpike revenue bonds of the authority for the purpose of paying all or any part of the cost of any pooled project or the cost of any part of such pooled project and to pledge revenues of such pooled project or any part thereof.

"(c) Subject to the terms of any trust agreement securing the payment of any turnpike revenue bonds, the authority is authorized to issue by resolution turnpike revenue refunding bonds of the authority for the purpose of refunding any bonds then outstanding, issued on account of any pooled project or any part of any pooled project issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, and enlargements to the pooled project or to any part of any pooled project in connection with which or in connection with any part of which bonds to be refunded shall have been issued. Revenues of all or any part of such pooled project may be pledged to the payment of such refunding and improvement bonds. Such improvements, extensions, or enlargements are not restricted to and need not be constructed on any particular part of a pooled project in connection with which bonds to be refunded may have been issued but may be constructed in whole or in part on other parts of the pooled project not covered by the bonds to be refunded. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect of the same, shall be governed by

the provisions of this Act insofar as the same may be applicable. Within the discretion of the authority the refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used for the purpose of redeeming outstanding bonds.

"Whether bonds be refunded or not, the Authority may, subject to the terms of any trust agreement securing the payment of any turnpike revenue bonds, issue from time to time by resolution, bonds, of parity or otherwise, for the purpose of paying the cost of all or any part of any pooled project or for the purpose of constructing improvements, extensions, or enlargements to all or any part of any pooled project, and to pledge revenues of all or any part of such pooled project to the payment thereof.

Sec. 4. The necessity of providing a date on or before which the Dallas-Fort Worth Turnpike shall be toll free, providing an orderly transition of the Dallas-Fort Worth Turnpike to the State Department of Highways and Public Transportation; the necessity for creation of a fund for feasibility studies of additional turnpikes; the relief from the crowded and hazardous conditions of the existing highways which will be afforded by this legislation; the need for additional highways for commercial and agricultural development of the state; and the inadequacy of funds to finance the construction of such facilities create an emergency and imperative public necessity requiring that the constitutional rule that bills be read on three several days in each house be suspended, and such rule is hereby suspended, and that this Act take effect immediately upon and after its passage, and it is so enacted.

The amendment was read.

Senator Meier moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

MEMORIAL RESOLUTIONS

S.R. 559 - by Adams: Memorial resolution for Louis Flanagan.

S.R. 561 - by Snelson: Memorial resolution for P. P. Butler.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 558 - by Doggett: Extending welcome to Reverend Roy Bohrer.

S.R. 560 - by Snelson: Extending congratulations to Mrs. George (Veronica) Puscas.

S.R. 562 - by Snelson: Extending congratulations to Joe Conger.

S.R. 563 - by Brooks: Extending congratulations to South Pasadena Rotary Club.

ADJOURNMENT

Senator Aikin moved that the Senate stand adjourned until 10:30 o'clock a.m. on Monday, April 25, 1977.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Adams, Aikin, Braecklein, Clower, Doggett, Farabee, Jones of Harris, Jones of Taylor, Lombardino, Longoria, Mauzy, McKnight, Meier, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan.

Nays: Brooks, Creighton, Hance, Harris, Kothmann, Mengden, Ogg, Parker, Williams.

Absent: Andujar, Moore.

Accordingly, the Senate at 12:07 o'clock p.m. adjourned until 10:30 o'clock a.m. Monday, April 25, 1977.

FIFTY-SIXTH DAY
(Monday, April 25, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

A quorum was announced present.

The Reverend Victor Hunter, St. Mary's Episcopal Church, Mesquite, Texas, offered the invocation as follows:

O God, the fountain of wisdom, whose will is good and gracious, and whose law is truth: We beseech You so to guide and bless our Senators and Representatives assembled in the Legislature of the State of Texas, that they may enact such laws as shall please You, to the glory of Your Name and the well-being of the people of Texas; through Jesus Christ our Lord. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 21, 1977, was dispensed with and the Journal was approved.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S.C.R.	17	S.B.	77
S.C.R.	25	S.B.	78
S.C.R.	34	S.B.	87
S.C.R.	37	S.B.	193
S.C.R.	39	S.B.	194